RECENT IMPORTANT DECISIONS.

BILLS AND NOTES—ALTERATION OF INSTRUMENT.—Plaintiff became the bona fide holder of defendant's promissory note "to the order of Lew Cochran or bearer;" there was no endorsement by the payee, who knew nothing of the note; and the words "or bearer" had been added by a pretended agent of Cochran and without knowledge of maker. *Held,* Not a material alteration, because § 582, REV. STAT. 1911 allowing any "assignee" to sue in his own name is construed to place a transferee without indorsement upon the same footing as an indorsee. *Douglass* v. *Lockhart.* (Texas 1914), 168 S. W. 382.

An alteration is material if it changes the maker's contract. *Humphreys* v. *Crane,* 5 Cal. 173. A modification of the manner of negotiation is such a change. *McCauley* v. *Gordon,* 64 Ga. 221. There is a conflict as to whether the erasing of the words "to order," and inserting "to bearer" constitutes a material alteration: the great weight of authority is in the affirmative. *Needles* v. *Shaffer,* 60 Iowa 65; *Crosswell* v. *Labree,* 81 Me. 44, 16 Atl. 331; *McDaniel* v. *Whitsett,* 96 Tenn. 10, 33 S. W. 567; *Walton* v. *Campbell,* 35 Neb. 173, 16 L. R. A. 468; *Marshall* v. *Wilhite,* 4 Oh. C. C. R. 203, 2 O. C. D. 500; *Belknap* v. *Bank,* 100 Mass. 376. Contra: *Flint* v. *Craig,* 59 Barb. (N. Y.) 319; *Weaver* v. *Bromley,* 65 Mich. 212, 31 N. W. 839. The instant case may be sustained because of § 582, REV. STAT. 1911, and seems to be backed in the construction given that statute by *Prouty* v. *Musquiz,* 94 Tex. 87, and *Bank* v. *Kenney,* 98 Tex. 293. But the court has adopted a rule contrary to general understanding and has eliminated a long existing distinction between the negotiable words "order" and "bearer," without a clear statutory provision to that effect. The distinction is important in a case like the present one, where the payee denies all knowledge of the note. A note payable to bearer is transferred by delivery. *Johnson* v. *Mitchell,* 50 Tex. 212, 32 Am. Rep. 602; *Holcomb* v. *Black,* 112 Mass. 450. If payable to order, by indorsement. 7 Cyc. 818. The statute dispenses with indorsement, but perhaps not with proof of the assignment. Assignment means more than indorsement or delivery; it includes an intent by the assignor, and an acceptance by the other party. *Bank* v. *Pindall,* 2 Rand. (Va.) 476. Here seems to be no "assignment," in the words of the statute, for the payee never knew of the note.

CONSTITUTIONAL LAW—ILLINOIS WOMAN SUFFRAGE ACT.—The Illinois Constitution provided that every male over 21 years of age having resided a certain time in the state and election district "next preceding any election therein" with certain other qualifications "shall be entitled to vote at such election." The Legislature passed an amendment to the Suffrage Act giving women the right to vote in certain cases. In deciding the constitutionality of this statute a divided court *held,* that the words "any election" do not embrace every election at which any political office is to be filled, but only elections for such offices as are created by and provided for in the constitu-

tion; that the legislature has the right to determine the qualifications for voters to offices created by the legislature; and that that part of the statute giving the women the right to vote for constitutional offices was void and the balance valid. *Scown* v. *Czarnecki et al.,* (Ill 1914) 106 N. E. 276.

The majority bases the decision on the case of *Plummer* v. *Yost,* 144 Ill. 68, and without considering whether the construction of the constitution in that case is right, or whether that case can be distinguished on the facts, and without considering adverse opinions in other states, declares the constitutionality of the statute in question on the ground of stare decisis. As is pointed out in one dissenting opinion, there is no rule of property involved in the case, and if the reasons of the deciding case are wrong, no reason exists why the present case should not overrule it. *Propeller Genesee Chief* v. *Fitzhugh,* 12 How. 443; *Legal Tender Cases,* 12 Wall. 457. Taking the words "any election" in their plain, obvious and common sense it seems that their meanings should be "all elections," STORY, THE CONSTITUTION, Par. 451; 2 CYC. 472; *McMurray* v. *Brown,* 91 U. S. 257. In other cases arising under the Illinois constitution these words are construed to mean "all elections" held under authority of law. In *People* v. *Strassheim,* 240 Ill. 279, the constitutional provisions were held to apply to primary elections, created by the legislature and unknown to the framers of the constitution, thus involving a contradiction if the same provisions do not regulate the election of officers created by the legislature, after nomination. To the same effect is *People* v. *Board of Election Comm'rs,* 221 Ill. 9. Construing many other sections of the constitution in their plain and obvious meaning the chief dissent points out no less than ten instances in which, if the construction of the majority is true, inconsistent situations must necessarily arise. *Plummer* v. *Yost,* supra, was a case involving the right of women to vote for any officer of schools and the right was upheld in the case of offices not created by the constitution. The majority claims this exactly decides the question in point, that the same should be true of other elections than school elections and expressly repudiates the doctrine adhered to in other states that by contemporaneous, long-continued and uniform legislative construction, qualifications of school officers form an exception to those of officers under the constitution. See *Belles* v. *Burr,* 76 Mich. 1. This case and *Wheeler* v. *Brady,* 15 Kans. 26, are the cases cited in the *Yost* case and those upon which the decision is based. The case of *Belles* v. *Burr* was expressly decided on the ground of taking school district elections out of the suffrage article of the constitution from long-continued and uniform legislative construction, and *Wheeler* v. *Brady* was decided on the peculiar facts of the Kansas Constitution which gave the legislature the right to regulate school elections. With these facts in mind there seems to be no slight ground for the correctness of the minority view that the doctrine of contemporaneous legislative construction does have application in Illinois, especially as courts of other states also have placed this construction on the Yost case without dissent. *Harris* v. *Burr,* 32 Ore. 348: *Mills* v. *City Board,* 54; *In re Gage,* 141 N. Y. 112. The case is very fully considered from both sides but it is hard to see how the decision is consistent with many former decisions of the same court. The matter of

suffrage being, however, emphatically legislative and political in nature, perhaps the court was justified in a large view, in letting the presumptions in favor of legislation control.

CONSTITUTIONAL LAW—INTERSTATE COMMERCE IN OIL PIPE LINES.—Various oil companies—not having the power of eminent domain—owned extensive pipe lines from California to the Atlantic Seaboard. They forced owners of oil to sell to them on their own terms before transportation so that all oil carried was the property of these companies. Congress passed an act (34 STAT. AT L. 584) amending the COMMERCE ACT, by which these Companies were "considered and held to be common carriers within the meaning and purpose of this act." This brought them under the requirements of the COMMERCE ACT. *Held,* the transportation of oil in pipe lines between points in different states is interstate commerce although all the oil transported may belong to the owners of the pipe lines. This is a valid exercise by Congress of its control over interstate commerce and is not a taking without due process of law. But a company which owns its own wells and pipes to another state to its own refinery is not within the act. *U. S. et al.* v. *Ohio Oil Co., et al.,* 34 Sup. Ct. 956.

The fact that the oils carried were owned by the pipe line companies does not of itself prove that the transportation is not commerce. *Rearick* v. *Pennsylvania,* 203 U. S. 507. The companies were masquerading as private business organizations, when in reality they were evading the consequences of becoming common carriers by duress on the oil owners. The statute was aimed at this combination, so the court held that those who are common carriers in substance may be compelled by Congress to become so in form. If the companies are to carry on business "they must do it in a way they do not like or not at all." *Atlantic Coast Line* v. *Riverside Mills,* 219 U. S. 186. Justice MCKENNA vigorously dissented and distinguished this case from other permissable cases of regulation in that in the latter, the uses regulated were always voluntarily extended. In this case the use is compelled and then regulated,—See *W. W. Cargill Co.* v. *Minnesota,* 180 U. S. 452; *Munn* v. *Illinois,* 94 U. S. 113—hence this is a step too far; a taking because of "a subjecting of property to other uses than that of its owner." But conceding this and looking at the ultimate result of the piping operations, the business is not local, it is one of a sufficiently public nature and in which the public has a sufficiently general interest to allow of regulation. These companies handle nearly all of the oil produced in the country, and though the companies were not common carriers nor did they ever hold themselves out to be, still if they wanted to carry on business it had to be done in a way not injurious to the public—on the same principle a private monopoly may be restrained. All regulations of trade with a view to the public interest may more or less impair the value of property and yet not constitute a taking without due process. *Munn* v. *People,* 69 Ill. 80. The decision is probably right though if the companies chose to discontinue operations resulting hardships might inure to oil owners in securing a market. Query,—By the authority of *U. S.*